REMARKS

This is a full and timely response to the non-final Office action mailed December 21, 2005. Reexamination and reconsideration in view of the foregoing amendments and following remarks is respectfully solicited.

Claims 1-12 are now pending in the application, with Claim 1 being the sole independent claim. None of the pending claims have been amended, and Claims 13-22 have been canceled herein without prejudice, as a result of a previously imposed restriction requirement. No new matter is believed to have been added.

Rejections Under 35 U.S.C. § 102

Claims 1-12 were rejected under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Patent No. 6,181,987 (Deker et al.). This rejection is respectfully traversed.

In delineating the above-noted rejection, the Office action alleges that the claims include statements of intended use or field of use, such as "operable to," adapted to," and "capable of." The Office action further alleges that these clauses are essentially method limitations or statements of intended or desired use, and are therefore accorded no patentable weight. In support of this allegation, the Office action cites M.P.E.P. §§ 2114 and 2115. However, as will now be explained, Applicant submits these sections of the M.P.E.P must be read in concert with other case law regarding functional language recited in claims. Applicant further submits that the claims do not include mere statements of intended or desired use, and that the claims actually do recite structure that is distinguishable from the prior art.

First of all, it is well-settled that "[t]here is nothing inherently wrong with defining some part of an invention in functional terms." M.P.E.P. § 2173.05(g). Moreover, a claim is not improper merely because it includes functional language. In re Swinehart, 439 F.2d 210, 169 USPQ 226 (CCPA 1971). Functional terms that are included within claims cannot be summarily ignored or dismissed. Instead, the M.P.E.P. dictates that functional terms, just like all other claim terms, must be evaluated and considered for what the terms convey to a person of ordinary skill in the pertinent art, and in the context in which such terms are used. M.P.E.P. § 2173.05(g).

In addition, Applicant submits that the pending claims do not include mere recitations of intended or desired use. For example, although the independent Claim 1 does recite a processor that is "'adapted to' to receive (i) data representative of a current aircraft flight plan and (ii) one or more textual clearance message signals representative of the air traffic control clearance messages," it further recites that the processor is "operable, in response [to the received data and textual clearance message signals], to supply one or more flight plan display commands and one or more clearance message display commands." Hence, it is clear that independent Claim 1 recites a uniquely configured processor, and not just any off-the-shelf processor. As may be readily apparent to any ordinarily skilled artisan, one cannot simply take any particular processor, supply it with the recited data signals, and expect it to supply flight plan display commands and clearance message display commands, without specifically configuring the processor to do so.

In this regard, Applicant further notes that Deker et al. is completely devoid of any teaching or suggestion that the disclosed computer (2) receives data representative of a current aircraft flight plan, and one or more textual clearance message signals representative of the air traffic control clearance messages, and in response to these data and signals, supplies flight plan display commands and textual clearance message display commands. The Office action alleges that because the textual window (28) displays textual information related to landing conditions or regulatory constraints, such as category of approach, "it is inherent that the processor (computer 2) can also supply . . . clearance message display commands." It is submitted, however, that textual information data related to landing conditions and/or regulator constraint data are not even remotely similar to textual clearance message signals representative of air traffic control clearance messages.

In addition to the above, and as was previously noted, even if textual clearance message signals representative of air traffic control clearance messages were transmitted to the system disclosed Deker et al., neither the computer (2) or any other portion of the system is disclosed as being operable, in response to such signals, to supply one or more clearance message display commands.

In view of the foregoing, Applicant requests reconsideration and withdrawal of the above-noted § 102 rejections.

Conclusion

Based on the above, independent Claim 1 is patentable over the citations of record. The dependent claims are also deemed patentable for the reasons given above with respect to the independent claims and because each recite features which are patentable in its own right. Individual consideration of the dependent claims is respectfully solicited.

The other art of record is also not understood to disclose or suggest the inventive concept of the present invention as defined by the claims.

Hence, Applicant submits that the present application is in condition for allowance. Favorable reconsideration and withdrawal of the objections and rejections set forth in the above-noted Office action, and an early Notice of Allowance are requested.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the below-listed number.

If for some reason Applicant has not paid a sufficient fee for this response, please consider this as authorization to charge Ingrassia, Fisher & Lorenz, Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,

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